

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	RM-10586
Proposal to Revise MDS and ITFS Service Rules)	DA 02-2732
)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby files its reply to comments filed regarding the “Proposal for Revising The MDS and ITFS Regulatory Regime” filed on behalf of the Wireless Communications Association International (“WCA”), the National ITFS Association (“NIA”) and the Catholic Television Network (“CTN”) on October 7, 2002.¹ As stated in Sprint’s comments, Sprint, as do the vast majority of commenters in the proceeding, strongly supports the Proposal, which suggests changes to the MDS and ITFS regulatory structure that will result in a streamlined, more flexible set of licensing rules and will support more expeditious delivery of advanced wireless services to schools and consumers across the country. Sprint is submitting this reply to emphasize two issues that are of particular importance to Sprint: (i) the adverse consequences that will befall Sprint and others who are looking to deploy second generation broadband technology if all small video operators are exempt from complying with the new bandplan; and (ii) the need for the Commission to immediately waive, and ultimately

¹ “A Proposal for Revision the MDS and ITFS Regulatory Regime,” filed Oct. 7, 2002 (“Proposal”).

eliminate, the various rules that force Sprint and others to maintain obsolete MDS/ITFS video systems and, indeed, to construct new video facilities to avoid forfeiting licenses².

Sprint – the largest operator of MDS/ITFS based video systems in the country – is troubled that most of the few concerns that were voiced in the comments in this proceeding came from operators of wireless cable systems that serve so few customers that they would not even meet the proposed five percent threshold for opting out of transitioning to the new band plan.³ These small system operators propose that all video systems, even those serving less than five percent of the households in a geographic area, be exempted from the new band plan and service rules on a case-by-case basis, claiming that otherwise the Commission would sound a “death knell” for their services. Yet, as is discussed in both the Proposal and in the WCA-NIA-CTN reply comments being filed today, these small operators will have ample opportunity to provide video services to their subscribers, even if they are not exempt from the transition.

More importantly, these video system operators fail to note that, if their proposal is adopted, two-way cellularized systems serving large swaths of the nearby geographic area would be exposed to potential co-channel interference and huge populations would be deprived of the improved services possible through the new band plan. As

² Sprint has reviewed the reply comments that WCA, NIA and CTN are filing today, and endorses the views expressed in that reply.

³ See Comments of Adams Telecom, Inc., at 5, stating: “For Adams, an operator with approximately 800 rural subscribers, meeting the Petitioners’ arbitrary five percent threshold would be difficult, if not impossible;” Comments of Leaco Rural Telephone Cooperative, at 5, stating: “For Leaco, an operator with approximately 2,537 rural subscribers, meeting the Petitioners’ arbitrary five percent threshold would be difficult, if not impossible.” Sprint strongly believes that the five per cent opt-out figure is extremely generous, as it represents just one-third of the subscribership the Commission has found

exemplified by the studies performed by Kessler & Gehman Associates, Inc. (“KGA”) and filed as exhibits to the WCA-NIA-CTN reply comments, the impact of permitting high-power, high-site wireless cable systems to opt-out of the proposed bandplan and continue to operate as currently configured will be to cause cochannel interference in the LBS and UBS sufficient to preclude or impair operation of services in major cities (*e.g.*, Albuquerque, Chicago, Milwaukee) far beyond the wireless cable system’s authorized service area.

For purposes of conducting these studies, Sprint advised KGA that it was reasonable to assume that a Sprint two-way cellular network of base stations utilizing the 2500-2690 MHz band would be designed in a manner similar to a broadband PCS network. Thus, KGA modeled MDS/ITFS base stations in the same locations and with the same heights as the base stations that have been actually installed by Sprint PCS or its local affiliate.⁴ As reported by KGA reported in Attachment 1 to the WCA-NIA-CTN reply, continued operation of the Socorro, NM wireless cable system using channels in the LBS and UBS is predicted to result in harmful interference to 68 of the 73 base stations that are located within the protected service area of the Albuquerque MDS stations owned by Sprint. Indeed, the interference is so severe that not only will more than 93 percent of the base stations suffer interference, but there would be a total loss of service at 86 percent of those base stations (63 of the 73 bases stations). As a practical matter, continued operations of the Socorro system with its current parameters on the

to constitute effective competition for purposes of CATV rate deregulation. See 47 C.F.R. § 76.905(a)(2)(ii).

⁴ KGA’s study of the impact of the Socorro wireless cable system on Albuquerque inadvertently misidentifies the local Sprint affiliate, which actually is named Alamosa.

LBS and UBS channels means no two-way broadband service on those channels in Albuquerque.

The Socorro story is not an isolated one. To the contrary, KGA came to similar conclusions when it analyzed the impact that continued operation of the existing wireless cable system in Madison, WI will have on the base stations of two-way systems situated great distances from the authorized service area of Madison stations. Again, KGA modeled two-way cellular MDS/ITFS facilities modeled at the locations and heights of the Sprint PCS base stations in the region, and studied the potential interference impact that the existing wireless cable system in Madison would have on those base stations. The results show that substantial cochannel interference would be caused – a result that is not surprising given the distance the transmissions by Madison licensees travel beyond the boundary of the Madison protected service area. Most significantly, KGA has found that continued operation of the Madison wireless cable system without modification would result in interference at 95% (228 of 240) of the base stations in the Milwaukee market, 97% (32 of 33) of the base stations in the Rockford BTA, and even 113 base stations as far away as the northwestern portion of the Chicago region. The Commission simply cannot countenance such interference, certainly not in the context of its statutory obligation to encourage the deployment of advanced telecommunications capabilities to all Americans.⁵

⁵ See, Pub. L. No. 104-104, Title 7, § 706, Feb 8, 1996, 110 Stat 153, reproduced in notes under 47 U.S.C. § 157.

Several parties filed comments supporting the proposal that MDS and ITFS licensees be relieved of ongoing obligations to construct and operate facilities under the current licensing regime pending transition to the new plan.⁶ Sprint agrees.

As discussed in the Proposal, most MDS BTA authorization holders, like many individual MDS and ITFS station licensees, have refrained from constructing one-way video-oriented transmission facilities and have deferred construction until they can deploy more viable broadband systems.⁷ Moreover, the Commission's rules requiring the continued operation of MDS and ITFS facilities once they are constructed effectively precludes Sprint from taking a variety of actions now to start the process of transitioning its video systems to two-way broadband. It would be an unjustified and unfortunate waste of resources and an unnecessary cause of customer confusion for licensees to be obligated to build out and operate in accordance with existing service rules, only to later reverse course and transition to the new plan. Compounding the need for relief from the build-out requirements is the Commission's recent decision to relocate MDS 1/2/2A to an unknown band at some point in the future⁸, rendering continued investment in and compliance with the legacy rules highly imprudent. As discussed in the Proposal, the Commission suspended the build-out requirements for IVDS, when its build-out policy remained subject to pending rulemaking proceedings, and it should likewise immediately

⁶ See, e.g., WCA-NIA-CTN First Supplement, at 5-7; Bellsouth Comments at 5.

⁷ See Proposal at 46-47.

⁸ In the Matter of Amending the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of Advanced Wireless Services, Second Report & Order, ET Doc. No. 00-258, FCC 02-304 (released Nov. 15, 2002).

suspend MDS and ITFS construction deadlines, build-out requirements and the rules requiring continued operation of constructed stations in this instance.⁹

In sum, Sprint is pleased that comments submitted in response to the Proposal were so overwhelmingly positive. While very small operators have urged the Commission to allow them to opt-out of transitioning to the new band plan, as demonstrated by the studies prepared by KGA, permitting such operators to do so would cause extensive interference with the operation of services one hundred miles away and would deprive huge portions of the nearby populations of improved services – a trade off that the Commission can not condone. Sprint urges the Commission to expeditiously resolve consideration of this matter and immediately suspend the existing rules addressed above so that resources may be allocated toward future endeavors and MDS and ITFS licensees and their customers may soon reap the benefits of an improved licensing regime and more flexible service rules.

Sincerely,

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⁹ *Id.* at 50. The situation here is even more compelling, as the MDS and ITFS bands have been the subject of spectrum reallocation proceedings for well over two years. *See*, Interim Report on Spectrum Study of the 2500-2690 MHz Band: The Potential for Accommodating Third Generation Mobile Systems, ET Docket No. 00-232, DA 00-2583 (Nov. 15, 2000).